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February 12, 2008

DEPARTMENT OF ENERGY
OFFICE OF HEARINGS AND APPEALS

Hearing Officer's Decision

Name of Case: Personnel Security Hearing

Date of Filing: August 1, 2007

Case Number: TSO-0526

This decision concerns the eligibility of XXXXXXXXXXXX ("the Individual") for continued access authorization. This Decision will consider whether, based on the testimony and other evidence presented in this proceeding, the Individual's request for an access authorization should be granted. For the reasons detailed below, it is my decision that the Individual's access authorization should be granted.

I. BACKGROUND

The Individual has been employed at a DOE facility in a position that requires him to hold an access authorization. The Individual was first granted an access authorization in 1986. DOE Exhibit ("Ex.") 28. Following a series of alcohol-related incidents, including two arrests for Driving While Intoxicated (DWI), the Individual was the subject of a Personnel Security Interview (PSI) in January 1993 during which he discussed the alcohol-related incidents and his alcohol consumption in general. The PSI did not resolve the concerns regarding the Individual's alcohol consumption and the local security office (LSO) ultimately referred the Individual to a DOE consultant-psychiatrist who diagnosed the Individual with "alcohol addiction." DOE Ex. 5. Based on the information gathered during the PSI and the DOE consultant-psychiatrist's diagnosis, the LSO suspended the Individual's access authorization in 1993 pending administrative review. DOE Ex. 28. The Individual's access authorization was ultimately terminated when the Individual left his position at the DOE facility. *Id.*

In 2002, the Individual returned to the DOE facility and his request for an access authorization was submitted to DOE. The Individual was the subject of another PSI in November 2006. During that PSI, the Individual discussed his prior alcohol-related incidents, including his arrests, and his alcohol consumption. The LSO referred the Individual to another DOE consultant-psychiatrist ("the Psychiatrist") in December 2006 in order to obtain an updated evaluation of the Individual and his alcohol problem. DOE Ex. 3. After reviewing the Individual's file, the Psychiatrist determined that the Individual met the criteria for Alcohol Dependence in 1992. The Psychiatrist presented a current diagnosis of "Alcohol Dependence in Sustained Partial Remission" set forth in the Diagnostic and Statistical Manual, 4th Ed., Text Revision, published by the American Psychiatric Association (the DSM-IV-TR). She based this diagnosis on the fact

that the Individual continued to consume alcohol “despite all the difficulties he has had in acquiring a clearance [from] DOE.” *Id.*

In June 2007, the LSO notified the Individual that his history of alcohol use, including the various alcohol-related incidents and arrests, and the Psychiatrist’s diagnosis of Alcohol Dependence in Sustained Partial Remission raised security concerns under 10 C.F.R. § 710.8(h) and (j). (Criteria H and J). Notification Letter, June 22, 2007. The LSO also cited various discrepant or incomplete statements made by the Individual during his two PSIs and on two security questionnaires (in 1991 and 2004) and stated that the discrepant information raised security concerns under 10 C.F.R. § 710.8(f). (Criterion F). Specifically, the LSO alleged that the Individual failed to disclose a May 1990 arrest for Disorderly Conduct and Resisting Arrest and a December 1990 arrest for driving off an embankment. The LSO further alleged that the Individual stated during a January 1993 PSI that he never smoked marijuana, but the admission notes from an alcohol treatment facility the Individual attended indicate that he used marijuana in the past. The Individual requested a hearing in this matter. *See* Individual’s Letter, notarized July 17, 2007. The Acting Director of the Office of Hearings and Appeals (OHA) appointed me to serve as the Hearing Officer.

A hearing was held in this matter. The Individual submitted the following documents: various personal letters of recommendation (Indiv. Exs. A-B; Indiv. Supp. Exs. A-H); various job performance appraisals (Indiv. Exs. C-J); drug testing results from 2001 and 2002; and, a report of evaluation from a clinical psychologist (“the Psychologist”) (Indiv. Supp. Ex. I). At the hearing, the Individual, represented by counsel, presented his own testimony as well as the testimony of his wife, his niece, two friends, his supervisor, and the Psychologist, to support his position that he has rehabilitated from his alcohol problem. The DOE counsel submitted documents into the record and presented the testimony of the Psychiatrist.

II. THE HEARING

A. The Individual

Regarding the inconsistent or discrepant statements in his security questionnaires – his April 1991 Questionnaire for Sensitive Positions (QSP) and the February 2004 Questionnaire for National Security Positions (QNSP) – and PSIs, the Individual stated that he never intentionally omitted or withheld information. Transcript (“Tr”) at 69. He stated that he disclosed the information at issue on other QNSPs and during his PSIs, but was inconsistent in filling out the forms. Tr. at 69. He attributed the discrepancies to confusion over completing the forms. Tr. at 68. Regarding the two omitted 1990 arrests, the Individual stated he may have been confused because, although he was arrested, the matters were dropped. He stated, “I was arrested and talked to them and everything was dropped.” Tr. at 69. He stated that he was “not that organized with clerical things” and that any omission occurred “by accident.” Tr. at 70. He added, everything (the derogatory information) is mentioned. It may be out of order, it may be in one and not the other, but I’ve never tried to intentionally hold something back. Tr. at 68. The Individual stated that in the future he would be sure to verify that all of the required information is listed on security forms. Tr. at 105. He also stated that he did not smoke marijuana in the past and did not know why the alcohol treatment facility records indicate that he had. Tr. at 68-69.

He stated that he may have thought the admissions interviewer from the alcohol treatment facility asked whether he had ever been exposed to marijuana. *Id.*

The Individual also discussed his past alcohol problem and current alcohol consumption. He stated that when he was younger and spending time with friends, drinking alcohol “is what we did.” Tr. at 72, 95. Regarding his past alcohol-related arrests, the Individual stated that he learned from them. He stated,

I grew out of them, and I learned the fact that, you know, I’m not invincible ... when you’re young you think you can do whatever you want, what’s in your head. And if somebody else gets caught ... you don’t take it upon yourself. And I realized that it’s me, and I made bad choices and I regret them, because I lost my job, caused pain to my family and myself.

Tr. at 72-73. The Individual stated that he did not drink daily, but rather drank “on occasion.” Tr. at 74. He stated that his last drink of alcohol was in December 2006. Tr. at 109. He added that he no longer drinks like he did in the past. The Individual stated that, if he drinks at all, “probably two or three [beers] would be the most.” *Id.* He stated that he does not crave alcohol or feel the urge to drink if he sees someone else drinking. Tr. at 75, 101. He stated that he is “frequently” in situations where alcohol is served and is able to abstain from drinking. Tr. at 101. When asked about the last time that he drank alcohol more than in moderation, the Individual answered, “I couldn’t give you a date, it would be years [ago].” Tr. at 85. The last time he had an alcohol-related problem or incident, such as an arrest, was in August 1992. Tr. at 110-111.

The Individual described his life currently as “great” and “very happy.” Tr. at 73. He added, “I’m older. My place in life is different. I’m now the father of four girls and I have to set an example for them. I have a new wife. I still consider her new. I have to be an example for my neighbors ... my neighborhood is an old neighborhood [with] old neighbors that have known me forever, so I have to be a good neighbor for them.” Tr. at 75. The Individual also stated that he has matured and recognized that he made poor choices regarding alcohol in his past. Tr. at 76.

B. The Individual’s Wife

The Individual’s wife stated that she has known the Individual for 15 years and they have been married for three years. Tr. at 9. The Individual’s wife described the Individual as an “outstanding” father and husband. Tr. at 10. In addition to the Individual’s two daughters from a prior marriage, she and the Individual have two young daughters. Tr. at 9-10. According to the Individual’s wife, the Individual spends most of his time outside of work with family or volunteering at their daughters’ school. *Id.* She stated that he helps their daughters with their homework, takes them to their various sports’ practices, spends time on activities such as cleaning the school playground, making repairs in the classrooms or helping with the maintenance of the school grounds. *Id.*

The Individual's wife stated that she has no concerns regarding the Individual's alcohol consumption. Tr. at 10-11. She stated that he never has too much to drink or loses control. Tr. at 11. She stated that the last time she saw the Individual consume any alcohol was nearly a year before the hearing when he had a beer at their daughter's family birthday party. Tr. at 17. She added that she has been with the Individual on occasions where alcohol is present and that he is able to refrain from consuming any alcohol. Tr. at 21.

The Individual's wife stated that she and the Individual have discussed his past. She stated that he would go out with his friends and drink on occasion. She added that the Individual and his previous wife "did not see eye-to-eye." Tr. at 13. She stated that, since their marriage, she has never known the Individual to turn to alcohol to deal with stressful situations. Tr. at 21. She added that the Individual no longer socializes with the same group of friends he went out with ten or 15 years ago and that he spends most of his time with the family, stating that he is "home all the time, unless he's at work." Tr. at 19-20. Finally, she stated that the Individual is very honest and that "he doesn't have anything to hide from anyone." Tr. at 18.

C. The Individual's Niece

The Individual's 29-year old niece stated that she interacts with the Individual frequently. Tr. at 25. She stated that she has never seen the Individual drink alcohol. Tr. at 26. She stated that the Individual's priorities are his wife and children. Tr. at 26-27. She added that he frequently volunteers at his children's school. Tr. at 25. The Individual's niece stated that she has socialized with the Individual at events where alcohol was present, but that he did not consume any alcohol. Tr. at 32. The Individual's niece described him as "honest" and a "good person" saying that she considers him a role-model. Tr. at 32. Finally, she stated that the Individual spends his time primarily with family and that she does not know of any other friends with whom he socializes. *Id.*

D. The Individual's Friends

Friend No. 1 has known the Individual since junior high school. Tr. at 43. Friend No. 1 stated that he currently only interacts with the Individual occasionally, generally at their children's school activities or in passing in the workplace. Tr. at 44. He stated that he and the Individual used to drink when they were younger and their drinking during the school years was "probably typical of high school kids in [their hometown]." *Id.* He added,

As you get older and mature – and I know [the Individual] has done the same thing, you get married, have kids, you start to look back on the community you live in, and unfortunately, that's just kind of the way it was.... And hopefully you grow out of that and become responsible adults.... That's kind of the way I've seen my life evolve, and I've seen [the Individual's] life evolve similar to that.

Tr. at 44-45. Friend No. 1 stated that it had been a few years since he saw the Individual drink alcohol. Tr. at 46. He stated, "there was some kind of get-together at [the Individual's] house and [he had] a couple of drinks probably. It was nothing like the old days, I'll tell you that much." *Id.* Friend No. 1 did not recall the last time he saw the Individual intoxicated, but stated

that it was probably during their high school years. *Id.* Friend No. 1 did not believe the Individual would return to his old drinking habits. He stated, “[the Individual has] grown up, he’s matured, he’s gotten married, he’s got four daughters ... I can’t imagine that he would do anything to jeopardize his family like that.... As you get older I think you get smarter and wiser and you realize consequences.” Tr. at 46-47. Friend No. 1 stated that, currently, the Individual spends all his free time with his wife and daughters and is an active volunteer at his daughters’ school. Tr. at 56.

Friend No. 1 described the Individual as honest and trustworthy. Tr. at 47, 48. He stated that he did not believe the Individual would lie or intentionally withhold information. He stated that the Individual “owns up to whether he has made a mistake.” Tr. at 54. Friend No. 1, a security clearance holder, stated his belief that the security forms can be confusing and “sometimes you can mess up.” Tr. at 54-55.

Friend No. 2 has known the Individual since high school. Tr. at 58. He stated that he and the Individual lost touch for several years after high school but became reacquainted seven or eight years ago because their children attend the same school. Tr. at 59-60. Friend No. 2 stated that the Individual is very involved in his children’s school. For example, the Individual served as president of the school’s parent organization and arranged and led school trips. Tr. at 60. Friend No. 2 stated that the Individual is “very much a family man.” Tr. at 63. He added that he would “unquestionably” trust the Individual with his children. *Id.*

Both friends stated that they had never seen the Individual use illegal drugs. Tr. at 55-56, 60.

E. The Individual’s Supervisor

The Individual’s supervisor stated that he has known the Individual since September 2002 and interacts with the Individual daily. Tr. at 35, 38. The supervisor stated that he has never noticed any signs of alcohol or substance abuse by the Individual. Tr. at 35. He added that the Individual is often “on call” and, as such, can be called into work at odd hours or during weekends. The Individual has never been unable to come to work due to intoxication. Tr. at 36. He added,

In our line of work ... we have to have people that are reliable, and we can have them respond in the middle of the night, weekends, holidays, and so I look for people that can perform those duties at any hours, any kind of weather. And [the Individual] has replied to those incidents without problems, and with good judgment. He never appeared to be under the influence of anything.

Tr. at 38. The supervisor stated that he has never known the Individual to be dishonest. He added that when the Individual was hired and applied for a clearance, he was very honest with the supervisor about the possibility that he would have a problem obtaining a security clearance and has since kept the supervisor informed throughout the administrative review process. Tr. at 40.

F. The Psychologist

The Psychologist stated that she evaluated the Individual at his request and administered several diagnostic tests. Tr. at 113-117. She stated that, based on her evaluation, it appeared that the Individual was alcohol dependent in the past. Tr. at 117. The Psychologist added, however, that the Individual no longer met the criteria for alcohol dependence. She stated,

Based on my assessment, while in the past it appeared that [the Individual] showed that he was alcohol dependent, his current lifestyle, reports of drinking levels by all accounts ... [indicate that the Individual] is not showing clinically meaningful ... impairment or distress consistent with a diagnosable disorder. He simply did not meet those criteria. [That] he met them in the past doesn't mean he automatically, because he drinks, is meeting them now.

Tr. at 117-118. The Psychologist stated that individuals who are currently suffering from an alcohol disorder demonstrate a "compulsive pattern" where they are "obsessive" in thinking about alcohol and when they are going to have their next drink. Tr. at 118. She added that they "spend a lot of time in these activities, being intoxicated, recovering from intoxication, thinking about and accumulating money to be able to purchase a substance. And ultimately ... those activities compete with everything else, that is ... with family, with work...." *Id.* Regarding the Individual, the Psychologist stated that he was not showing a "maladaptive pattern of drinking that would underlie a disorder." She added, "[h]is lifestyle is currently so different from the past. I mean, clearly in the past he was partying, his drinking was in a social context, and his excessive drinking really was around marital stress, it appeared, and drinking buddies, and where he was at that point in his life." Tr. at 119. The Psychologist further stated that it was common for individuals who drank in their younger years to grow out of that stage. She stated,

It's very common for people ... to mature out of a period of time when you're partying, because of the demands of family, work, your religious beliefs, your marital circumstances, responsibilities that demand you be sober. And if you are at all participating in the community and actively involved in those parts of your life ... you're not capable of then also being intoxicated at the same time, without it being real clear, real evident, and that emerging as a picture.

Tr. at 119-120.

The Psychologist's opinion regarding the current status of the Individual's alcohol disorder differed from the Psychiatrist's opinion. She stated that, contrary to the Psychiatrist's opinion, the Individual "did not meet the criteria for drinking outside the limits of what's considered to be social drinking." Tr. at 121. She also disagreed with the Psychiatrist's opinion that the Individual did not demonstrate any evidence of rehabilitation or reformation. She stated that the Individual "clearly engaged in treatment when he was asked to. And he further changed his lifestyle." Tr. at 122. The Psychologist noted that it had been 15 years since the Individual had had any alcohol-related problem and that, in her opinion, he was in remission or recovery. Tr. at 123.

The Psychologist noted that “the most efficacious treatment program right now, today that has been studied in a meta-analysis published by Miller, et al, and others ... is called the community reinforcement program.” Tr. at 122. The Psychologist stated that the program trains problem drinkers to change their lifestyles, engage in non-alcohol-related activities and engage in church activities. Tr. at 122-123. She stated that the Individual took those steps on his own. The Psychologist added that most individuals who engage in problem drinking in their younger years and are at risk for either dependence or abuse while they are drinking excessively “mature out of their drinking” as the Individual did. Tr. at 123.

Finally, the Psychologist disagreed that abstinence from alcohol was the only accepted standard for rehabilitation and reformation for an individual diagnosed as alcohol dependent. The Psychologist stated that there are experts in the field of alcohol treatment, specifically the National Institute of Alcohol Abuse and Alcoholism, that have recognized that it is possible for a person diagnosed as alcohol dependent to successfully use alcohol in a controlled or moderate manner. Tr. at 126-127. She added that the “state of the art” in alcohol treatment is “harm reduction” which means, in essence, that “what works the best for people who have substance use disorders is offering them a menu of options for change, including their goal.” Tr. at 125. She concluded, “if somebody is successfully moderating their drinking and has been for 15 years, why would I want to change that?” Tr. at 125-126. She added, “[the Individual has] demonstrated through his history in the past 15 years that he hasn’t suffered consequences related to his drinking. So from my perspective he is in remission. He’s in what we call recovery.” Tr. at 126.

G. The Psychiatrist

The Psychiatrist stated that the Individual met the criteria for alcohol dependence when he was initially evaluated by a DOE consultant-psychiatrist. Tr. at 153. She stated that alcohol dependence is a time-independent diagnosis; once a person is diagnosed as alcohol dependent, they will always be alcohol dependent. The key is whether they are in remission. Tr. at 153-154. The Psychiatrist made her determination that the Individual suffered from Alcohol Dependence in Sustained Partial Remission using the DSM-IV-TR. Tr. at 149. She stated that the Individual met several criteria for Alcohol Dependence in the past, and at the time of her evaluation he actively met Criterion 4, which is that an individual has a persistent desire to quit drinking. Tr. at 150-151. The Psychiatrist also stated that total abstinence is “still the predominant recommended treatment for those with alcohol dependence....” Tr. at 156.

The Psychiatrist indicated that the Individual had demonstrated some evidence of rehabilitation or reformation, but in her opinion it was not adequate. Tr. at 161-162. The Psychiatrist noted that the Individual’s stable family life and involvement with his children’s school is a positive factor. Tr. at 167. She also noted that the Individual quit drinking after his interview with her, which was ten months prior to the date of the hearing. Tr. at 162. However, in her opinion, ten months of abstinence was insufficient to demonstrate a low risk of relapse. *Id.* She stated that alcohol dependence is “an unpredictable disease” and, therefore, a long period of abstinence is necessary to show a low risk of relapse. Tr. at 164. She maintained that abstinence was the preferred course of action for individuals who are diagnosed as alcohol dependent. Tr. at 153-154. The Psychiatrist also stated that, in her opinion, the Individual had not “gone through the

complete understanding or awareness of this [alcohol disease] ... until [individuals dealing with alcohol problems] have really gotten the notion that they could not have that relationship with alcohol, then they [cannot] truly substantially lower their risk of relapse in the future.” Tr. at 182-183.

III. STANDARD OF REVIEW

The regulations governing the Individual’s eligibility for an access authorization, also referred to as a security clearance, are set forth in 10 C.F.R. Part 710, “Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Special Nuclear Material.” An individual is eligible for access authorization if such authorization “would not endanger the common defense and security and would be clearly consistent with the national interest.” 10 C.F.R. § 710.7(a). “Any doubt as to an individual’s access authorization eligibility shall be resolved in favor of the national security.” *Id.* See generally *Dep’t of the Navy v. Egan*, 484 U.S. 518, 531 (1988) (the “clearly consistent with the interests of national security” test indicates that “security clearance determinations should err, if they must, on the side of denials”).

Under Part 710, the DOE may suspend an individual’s access authorization where “information is received that raises a question concerning an individual’s continued access authorization eligibility.” 10 C.F.R. § 710.10(a). Derogatory information includes, but is not limited to, the information specified in the regulations. 10 C.F.R. § 710.8. Once a security concern is raised, the individual has the burden to bring forward sufficient evidence to resolve the concern.

In considering whether an individual has resolved a security concern, the Hearing Officer considers various factors, including the nature of the conduct at issue, the frequency or recency of the conduct, the absence or presence of reformation or rehabilitation, and the impact of the foregoing on the relevant security concerns. *Id.* § 710.7(c). The decision concerning eligibility is a comprehensive, common-sense judgment based on a consideration of all relevant information, favorable and unfavorable. *Id.* § 710.7(a). In order to reach a favorable decision, the Hearing Officer must find that “the grant or restoration of access authorization to the individual would not endanger the common defense and security and would be clearly consistent with the national interest.” *Id.* § 710.27(a).

IV. ANALYSIS

The Individual did not dispute the facts cited in the Notification Letter or that those facts raised the security concerns cited in the letter. The only issue to be resolved is whether the Individual has adequately mitigated the security concerns. Below is my analysis of the mitigating evidence the Individual presented with regard to each of the security concerns.

A. Criterion F - Falsification

Criterion F concerns involve the future honesty and candor of an individual. The DOE security program is based on trust, and when a security clearance holder breaches that trust, it is difficult to determine to what extent that individual can be trusted again in the future. See, e.g., *Personnel Security Hearing, Case No. VSO-0013*, 25 DOE ¶ 82,752 at 85,515 (1995); *Personnel Security*

Hearing, Case No. VSO-0281, 27 DOE ¶ 82,821 at 85,915 (1999), *aff'd*, 27 DOE ¶ 83,030 (2000). In order to adequately mitigate these concerns, an individual has the difficult burden of convincing the Hearing Officer that he can be trusted to be honest and forthright with DOE in the future.

The Notification Letter states that the Individual provided incomplete information on security forms and during PSIs. According to the Notification Letter, the Individual failed to disclose a May 1990 arrest for Disorderly Conduct and Resisting Arrest and a December 1990 arrest for driving off an embankment on an April 1991 QSP and a February 2004 QNSP. The letter also states that the Individual stated during a January 1993 PSI that he never smoked marijuana but records from an alcohol treatment facility indicate that he used marijuana in the past.

After considering the testimony presented by the Individual and other witnesses, I find that the Individual has mitigated the Criterion F concern. Regarding the discrepant information provided during the PSIs and on the April 1991 QSP and February 2004 QNSP, the Individual indicated that he did not intentionally withhold information from DOE. He stated that his omission of the two arrests was attributable to confusion on his part while completing the complex security forms. He stated that, because the arrests did not result in any further charges or proceedings, he did not believe they were the types of incidents that needed to be reported on the forms. Furthermore, the DOE was aware of the two arrests. The Individual discussed the two arrests during a July 1992 PSI and a November 2006 PSI when he was asked about prior arrests. In addition, the 2004 QNSP lists the Individual's two 1992 arrests, despite omitting the 1990 arrests. Given the fact that the Individual disclosed other derogatory information on the February 2004 QNSP, and discussed the 1990 arrests with DOE as early as 1992, I believe the Individual's testimony that the omissions of the 1990 arrests were not a deliberate attempt to withhold information from DOE, but rather were the result of his mistaken belief that he did not have to list the arrests because they did not result in further proceedings. The Individual has indicated that he will take more care in completing security questionnaires in the future.

The Individual also disputed the statement in the Notification Letter that he smoked marijuana in the past. On this matter, I find that there is no evidence in the record, other than the notes from the alcohol treatment facility, to suggest that the Individual was a smoker of marijuana or a user of other drugs. Furthermore, I am convinced by the testimony that the Individual did not lie when he stated during the January 1993 PSI that he had never used marijuana in the past. Rather, I believe the statement in the admission notes of the alcohol treatment facility was the result of either the Individual's misunderstanding of the question posed by the admissions interviewer at the facility or a transcription error.

In addition to the Individual's testimony, I was persuaded by the testimony of his wife, niece, and friends. Each of the witnesses described the Individual as honest, almost to a fault. They each stated that the Individual would not intentionally withhold information. Friend No. 1 also stated that the Individual always admits his mistakes and takes responsibility for them. Both Friend No. 1 and Friend No. 2, who have known the Individual for many years, stated that they have never known the Individual to use any illegal drugs.

B. Criteria H and J – Alcohol Use

The derogatory information concerning Criteria H and J centers on the Individual's past use of alcohol, the Psychiatrist's diagnosis that the Individual suffers from Alcohol Dependence in Sustained Partial Remission, and the Psychiatrist's opinion that this is a disorder which causes or may cause, a significant defect in judgment or reliability. Given the Individual's alcohol-related incidents and arrests, the opinion of the initial DOE consultant-psychiatrist that the Individual suffered from "alcohol addiction," and the Psychiatrist's diagnosis that the Individual suffers from Alcohol Dependence, the LSO had sufficient grounds to invoke Criteria H and J. For the reasons set forth below, I find that the Individual has mitigated the security concerns raised by his past alcohol use.

While it is undisputed that the Individual actively met the criteria for Alcohol Dependence in 1992, I am not persuaded by the Psychiatrist's findings regarding the current status of the Individual's alcohol disorder. In determining that the Individual still exhibited some behaviors associated with alcohol dependence, the Psychiatrist found that the Individual actively met one criterion – criterion four – for alcohol dependence under the DSM-IV-TR because he had a persistent desire to quit drinking. Criterion four for substance dependence states that "there is a persistent desire or unsuccessful efforts to cut down or control substance use." DSM-IV-TR at 197. The record indicates that the Individual has successfully controlled his drinking over the past 15 years. Therefore, there is neither "the persistent desire" nor "unsuccessful efforts to cut down or control" his drinking. The Individual has, over the course of 15 years, used alcohol in a controlled, responsible manner. This behavior does not seem to be the type of behavior that criterion four was attempting to capture.

The Psychiatrist acknowledged that the changes the Individual made in his lifestyle, his stable family life, his ability to drink alcohol in moderation over the past 15 years, and his ten months of abstinence prior to the hearing were all positive factors. However, she determined that these mitigating factors and the significant length of time the Individual successfully moderated his alcohol consumption were outweighed by the fact that the Individual continued to drink on occasion.

On the other hand, the Psychologist's testimony was more convincing in that she considered many factors in reaching her conclusions. Her evaluation was based on several diagnostic tests completed by the Individual, the Individual's background, current lifestyle, the Individual's recent and current alcohol consumption levels, and current studies and analyses in the medical community regarding the treatment of alcohol disorders. I am persuaded by the testimony of the Psychologist that, despite not totally abstaining from alcohol, the Individual has successfully overcome his alcohol dependence. The Psychologist supported her position by pointing to the Individual's 15-year history of success in controlling his drinking and his ability to change his lifestyle to focus on non-alcohol-related activities.

It is also necessary to consider the Individual's risk of relapse. The Psychiatrist maintains that the Individual has not presented enough evidence of rehabilitation and reformation, due to his continued use of alcohol, to demonstrate that his risk of relapse is low. Conversely, the Psychologist maintained that the Individual's risk of relapse was low precisely because he was able to drink responsibly for 15 years without incident. In most instances involving an alcohol

disorder, in order to demonstrate rehabilitation or reformation, individuals come forward with one or two years of abstinence immediately following years of problem drinking. *See, e.g., Personnel Security Hearing, Case No. TSO-0253*, 29 DOE 82,879 (2005); *Personnel Security Hearing, Case No. TSO-0260*, 29 DOE 82,867 (2005). This is not the case here. In this case, there is a well-established, 15-year track record of responsible use of alcohol. While the Psychiatrist adhered to the belief that abstinence is the only acceptable course for treating Alcohol Dependence, despite overwhelming evidence that in this case controlled drinking and change of lifestyle were successful, the Psychologist recognized that there may be cases, such as this one, where a different method is equally, if not more, successful.*

Moreover, the Psychologist's view is supported by the other testimony at the hearing. I believe that the Individual and his witnesses testified honestly and candidly. The Individual maintains that he is able to consume alcohol in moderation, that he has not had any alcohol in at least ten months, and that alcohol has not caused any problems in his life in over 15 years. These statements, corroborated by his wife, his niece and his two friends, who all stated that they have not witnessed the Individual drinking much, if at all, in the past several years. In addition, the Individual's family life is, by all accounts, very stable. Each of the witnesses testified that the Individual's family is his priority and that he spends most of his free time either with his family or volunteering at his daughters' school. The Individual's supervisor also described the Individual as an excellent, reliable employee who has never exhibited any signs of alcohol or other substance problems, although he has often been called into work unexpectedly and at odd hours.

In sum, I was convinced by testimony of the Psychologist that, although he was properly diagnosed as Alcohol Dependent, the Individual successfully controlled his alcohol disorder. I found this testimony to be supported by the testimony of the Individual and his witnesses that he no longer has a problem with alcohol. I believe that at this point his risk of relapse is low. To the extent that the Psychiatrist's report raised security concerns under Criteria H and J, I find that they have been mitigated.

V. CONCLUSION

Upon consideration of the entire record in this case, I find that there was evidence that raised security concerns regarding the Individual's eligibility for a security clearance under Criteria F, H and J. I also find sufficient evidence in the record to fully resolve those concerns. Therefore, I conclude that restoring the Individual's access authorization "would not endanger the common defense and security and would be clearly consistent with the national interest." 10 C.F.R. § 710.7(a). Accordingly, the Individual's access authorization should be granted.

* The Psychologist's position is supported by the Adjudicative Guidelines for Determining Eligibility for Access to Classified Information. *See* Revised Adjudicative Guidelines for Determining Eligibility for Access to Classified Information issued on December 29, 2005 by the Assistant to the President for National Security Affairs, The White House ("the Adjudicative Guidelines"). Guideline G, which addresses alcohol consumption, notes that abstinence is a possible mitigating factor for alcohol dependence, but does not require that an individual diagnosed as alcohol dependent never drink alcohol again. Guideline G, ¶ 23.

The parties may seek review of this Decision by an Appeal Panel under the regulation set forth at 10 C.F.R. § 710.28.

Diane DeMoura
Hearing Officer
Office of Hearings and Appeals

Date: February 12, 2008